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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,224	12/05/2000	Bruno Bret	B-0611-US	6612

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EXAMINER

WARE, TODD

ART UNIT PAPER NUMBER

1615

DATE MAILED: 10/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,224

Applicant(s)

BRET ET AL.

Examiner

Todd D Ware

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Receipt of request for extension of time (granted), request for drawing correction, and amendment all filed 8-12-02 is acknowledged. Claims 1-7 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-2, 5-6 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Nielsen et al (WO 99/19081; hereafter '081).

'081 discloses spraying an absorbent paper product with a lotion by means of a stream of gas (page 23, lines 1-12; page 29, line 15-page 30, line 4).

Response to Arguments

3. Applicant's arguments filed 8-12-02 have been fully considered but they are not persuasive. Applicant argues that '081 is the technique of the prior art from which the present invention is distinguished, stating that '087 rejects the technique of spraying by atomizing on page 8, line 2 to page 9, line 8. Applicant argues that these pages set forth all the problems and difficulties inherent in the technique of spraying by atomization. This argument is not fully understood.

The instant claims require a process for depositing a lotion on an absorbent paper product where the lotion comprises a volatile liquid vehicle and where the method

comprises spraying the lotion with a pressurized gas to remove part of the volatile liquid vehicle and form fine droplets of lotion having a low proportion of volatile liquid vehicle on the paper product where the method occurs at room temperature. '081 discloses spraying an absorbent paper product with a lotion by means of a stream of gas. '081 also discloses on page 32, line 10 to page 33, line 7 that the process of '081 produces uniform atomization having a narrow droplet size (i.e. a span of about 1.4) and where the droplets are as small as 5 microns. Applicant argues that the instant claims require a stream of gas and that the composition is distributed "as homogeneously and uniformly as possible over the surface of the product," but that '087 does not and can not accomplish this. However, this argument is not convincing, since '087 specifically discloses that "the uniform atomization and spray patterns can provide a more uniform deposition and distribution of the additive composition on the conveyed sheet material" (page 34, lines 12–14).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al (WO 99/19081; hereafter '081).

'081 teaches spraying an absorbent paper product with a lotion by means of a stream of gas (page 23, lines 1-12; page 29, line 15-page 30, line 4). '081 does not teach the proportion by weight of the emollient nor the amount of emollient that is applied upon the paper product, however it would have been obvious to one skilled in the art at the time of the invention to adjust these amounts with the motivation of imparting a greater or lesser moisturizing effect upon the skin of the user.

Response to Arguments

7. Applicant's arguments filed 8-12-02 have been fully considered but they are not persuasive. Applicant's arguments filed 8-12-02 have been fully considered but they are not persuasive. Applicant argues as stated *supra* in paragraph 3 regarding the rejection under 35 U.S.C. 102(a) - '081 is the technique of the prior art from which the present invention is distinguished and that '087 rejects the technique of spraying by atomizing on page 8, line 2 to page 9, line 8. Accordingly, the position taken by the examiner in this paragraph is again applicable. It is further argued that it would have been obvious to one skilled in the art at the time of the invention to adjust the amount of

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emollient with the motivation of imparting a greater or lesser moisturizing effect upon the skin of the user.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey et al (5,705,164; hereafter '164) in view of de Haut et al (WO 97/30216; hereafter '216) or Mackey et al (5,705,164; hereafter '164) in view of Bret et al (WO 97/30217; hereafter '217).

'164 teaches application of lotion to absorbent tissue paper with a stream of gas. However, '164 teaches the lotion must be sprayed at a temperature of 160° F, since the lotion is melted at this temperature.

'216 and '217 both teach absorbent tissue paper products with a lotion having a melting point of about 5° C that is applied by means other than spraying.

Accordingly, it would have been obvious to one skilled in the art at the time of the invention that maintaining the spray temperature of '164 at 160° F would not be necessary with the lotion of either '216 or '217, since these lotions are already liquid at room temperature, and to maintain the spray temperature at room temp with the motivation of saving expense resulting from heating the sprays. Furthermore, it would also have been obvious to one skilled in the art at the time of the invention to adjust the amounts of the emollient applied upon the paper product with the motivation of imparting a greater or lesser moisturizing effect upon the skin of the user.

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9. Applicant's arguments filed 8-12-02 have been fully considered but they are not persuasive. Applicant's arguments filed 8-12-02 have been fully considered but they are not persuasive. Applicant presents arguments pertaining to rejections over '087 *supra* and states that these are pertinent to '164 for the same reasons. Applicant further argues that '164 teaches gravure coating. However, this is only one embodiment for application of the lotion to the tissue. Examples 1-4 all teach that the lotion is applied to the tissue by hot melt spraying. The secondary references are relied upon to show that lotions having a melting point of about 5° C do not require high temperatures, since these lotions are already liquid at room temperature.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd D Ware whose telephone number is (703) 305-1700. The examiner can normally be reached on M-F, 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on (703)308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

tw
October 24, 2002

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
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